

Asked and Answered Questions, Regarding Louisiana Office of Community Development NOFA for the Middle Market Loan Program, Initially Published

1. No Section Reference. Want to learn more?
Please join us on Wednesday, February 9, 2022, @ 10:30 am CST for a live exchange of information regarding MMLP. To register, send an email to housing.inquiries.ocd@LA.GOV. A zoom link will be proved to all registrants the day before the event.
2. Notice: §2.1, Funds Available, Maximum and Minimum Funding. The limitations on available CDBG-DR per unit and per project have been increased. The NOFA is amended to strike the sentence “No CDBG-DR funds award may exceed Fifty Thousand Dollars (\$50,000) per residential dwelling unit” and replace it with the sentence “No CDBG-DR funds award may exceed One Hundred Thousand Dollars (\$100,000) per residential dwelling unit. The sentence “No CDBG-DR funds award may exceed Seven Million Six Hundred Fifty Thousand Dollars (\$7,650,000) in total funding to any single project” is struck and replaced with “No CDBG-DR funds award may exceed Fifteen Million Three Hundred Thousand Dollars (\$15,300,000) in total funding to any single project.”
3. No Section Reference. Are municipal and/or parish governments eligible as applicants?
Local government entities may partner with for- or non-profit developers in ways which do not interfere with the NOFA-required financial structures of a transaction. OCD does not envision a government entity acting in the capacity of a developer. The financial structure requires a developer to conceive, plan, arrange financing, build and operate the housing; these are not typically roles undertaken by municipal or parish governments.
4. No Section Reference. Is it the intent to combine the funds available through this NOFA with 4% Low Income Housing Tax Credits?
It is not intended that MMLP funds be combined with 4% LIHTCs. Various provisions of the NOFA are in conflict with LIHTC requirements. See §1.1., Overview, which states clearly that “Applicants may not combine CDBG-DR funding available through this NOFA with Low Income Housing Tax Credits (LIHTC).” Note this is a program offered by the State Office of Community Development; there is no sponsorship of this program by the Louisiana Housing Corporation.
5. No Section Reference. What is the allowed developer fee available to a developer utilizing this funding?
As originally issued on 01/14/22 the NOFA did not permit a developer fee (as typically appears in the development financing of LIHTC developments). As amended with the MMLP issued 02/04/22, MMLP will permit a developer fee, in an amount no greater than \$3,000 per residential unit, and only to the extent it can be paid from development sources (i.e., there will be no ‘deferred developer fee’ in the transaction. This fee may be paid 25% at closing, 25% at 50% construction completion, and 50% at construction completion. The amended NOFA adds a new subsection at §2.2. which addresses this issue.
6. §1.13, Schedule and §10.5, Required Dates and Deadlines. Ensure that OCD/LHC can perform the Environmental Reviews in the time allowed for finance closing by 12/7/2022.
The required schedule allows for 177 days between award of funding and financial closing, in which time the required environmental approvals should be obtainable. OCD will perform the

review and will prioritize processing but cannot guarantee complete processing and issuance of an Authority to Use Grant Funds (AUGF) by the deadline. Delays attributable to OCD will be considered as a justification for granting extensions.

7. §3.1, Set- Aside Requirements. First bullet, if income restrictions are included for units above 80% AMI, do not require a reduction for utility allowances, similar to the way market-rate units are treated. The additional revenue will be critical to developers to be able to provide the desired Return on Investment to OCD.
A set-aside requiring rent and income restrictions for units above 80% AMI is optional. Under certain conditions (see §3.1, Set-Aside Requirements, third and fourth bullets) developers may opt to restrict some units at 90% and 100% AMI. Any such optionally and additionally restricted units must have rents which are set at 30% of the applicable AMI, adjusted for imputed household size, less the utility allowance. OCD will not permit an approach to the calculation of affordability of these rents which is different than the approach for the (required) 80% AMI units. Note the incentive for a developer offering these additionally restricted units in the scoring is found at §6.2.2., Affordability Value—15 Possible Points.
8. §3.1, Set- Aside Requirements. Third bullet, we believe you mean to say: “Provided market rents are affordable only to households earning more than 90% of AMI....” Otherwise, there will be a gap in being able to rent to households between 90% and 100% of AMI.
The language remains unchanged. The requirement for a developer opting to restrict units at 90% AMI is that market rents be greater than 100% AMI. The OCD will only permit a set aside of units at 90% AMI if the market rents are sufficiently greater (i.e., 100% AMI) so that the 90% AMI restriction actually results in a rent which is lower than the market rent. Similarly, units may be set aside (and income- and rent-restricted) at 100% AMI if market rents are 110% of AMI.
9. §3.1, Set- Aside Requirements. Fourth bullet, similar as above. We believe you mean to say: “Provided market rents are affordable only to households earning more than 100% of AMI....” Otherwise, there will be a gap in being able to rent to households between 100% and 110% of AMI.
See #7, above.
10. §3.1, Set- Aside Requirements. States, “All affordability restrictions will have a duration of ten years”; however, Section 3.2 Affordability Term End- of Term Transition states “All affordability will be deed-restricted for 35 years.” Please clarify.
The deed restriction on affordability (corresponding to the set aside requirements) will have a duration of 35 years. Provisions in that agreement and in the loan agreement will obligate the OCD to release the deed restriction upon both (a) achievement of ten years of affordability and (b) repayment of the CDBG-DR MMLP Loan.
11. §6.1.1, Ratio of Developer Equity to CDBG-DR Loan. The Developer Equity ratio incentive significantly disadvantages non-profit developers from being competitive. We suggest removing it.
OCD will preference transactions which have greater financial participation by the developer. Notwithstanding this and in part because OCD is increasing the maximum MMLP loan which may be requested, the number of points to be earned from this criterion is not likely to be ‘significant’ (for example, if the MMLP loan is \$15M and Developer Equity is \$1M, the applicant would earn 0.7 points total.) Significant points will require a significant investment of equity.

- 12.** §6.1.3. Guaranteed ROI. This is not required in the traditional real estate equity investment marketplace. We suggest removing it for greater participation by developers.
Agreed, it is not required. The NOFA states, "Applicants may propose to provide a Guaranty to OCD on its Return on Investment but are not obligated to do so." Notwithstanding this, developers who opt not to provide a guaranty may be at a disadvantage in scoring against developers who do opt to provide a guaranty. The minimum guaranty (if provided) is an ROI of \$1.00, essentially guarantying that OCD will be repaid in full.
- 13.** §9.6. Site Development Requirements. Will the proposed development site need to be properly zoned prior to submission of our application? Or is zoning just required when construction is completed?
The NOFA is corrected accordingly. The sentence at this Section which previously stated, "Construction that is financed by CDBG-DR Funds must meet all applicable State and local building codes along with appropriate zoning ordinances in effect at the time of project completion" is revised to state, "Construction that is financed by CDBG-DR Funds must meet all applicable State and local building codes along with appropriate zoning ordinances in effect at the time of project application." In addition, the following sentences are added to this section, "However, projects may be proposed which require a variance or rezoning but are at-risk of a determination by OCD that the proposed property is not reasonably likely to receive the necessary approvals, and OCDs rejection of the application on that basis, alone. Developers may bring situations to OCD prior to the application deadline for consideration, on this basis."